

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSE ALFREDO SUAREZ,

Plaintiff,

v.

KEN CLARK, et al.,

Defendants.

No. 1:22-cv-00160-JLT-SAB (PC)

ORDER REGARDING PLAINTIFF'S  
MOTION TO COMPEL

(ECF No. 54)

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff's motion to compel, filed June 16, 2023.

**I.**

**RELEVANT BACKGROUND**

This action is proceeding on Plaintiff's excessive force claim against Defendant O. Valladolid, failure to intervene claim against Defendants B. Camargo, Gamboa and T. Hieng, and retaliation claim against Defendants Gamboa and O. Valladolid.

Defendants filed an answer to the complaint on December 12, 2022. (ECF No. 38.)

On February 15, 2023, the Court issued the discovery and scheduling order. (ECF No. 48.)

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On June 15, 2023, Defendants filed a motion for partial summary judgment for failure to exhaust the administrative remedies. (ECF No. 53.) Plaintiff filed an opposition to Defendants' motion on July 17, 2023, and Defendants filed a reply on July 31, 2023. (ECF Nos. 58, 61.)

As previously stated, on June 16, 2023, Plaintiff filed the instant motion to compel. (ECF No. 54.) Defendants filed an opposition to Plaintiff's motion to compel on July 5, 2023, and Plaintiff filed a reply on August 7, 2023. (ECF Nos. 55, 62.)

## II.

### LEGAL STANDRD

Plaintiff is proceeding pro se and he is a state prisoner challenging his conditions of confinement. As a result, the parties were relieved of some of the requirements which would otherwise apply, including initial disclosure and the need to meet and confer in good faith prior to involving the Court in a discovery dispute. Fed. R. Civ. P. 26(a)(1); Fed. R. Civ. P. 26(c); Fed. R. Civ. P. 37(a)(1); Local Rules 240, 251; ECF No. 48. Further, where otherwise discoverable information would pose a threat to the safety and security of the prison or infringe upon a protected privacy interest, a need may arise for the Court to balance interests in determining whether disclosure should occur. See Fed. R. Civ. P. 26(c); Seattle Times Co. v. Rhinehart, 467 U.S. 20, 35 n.21 (1984) (privacy rights or interests implicit in broad purpose and language of Rule 26(c)); Burlington N. & Santa Fe Ry. Co. v. United States Dist. Court for the Dist. of Montana, 408 F.3d 1142, 1149 (9th Cir. 2005) (discussing assertion of privilege); Soto v. City of Concord, 162 F.R.D. 603, 616 (N.D. Cal. 1995) (recognizing a constitutionally-based right of privacy that can be raised in discovery); see also Garcia v. Clark, No. 1:10-CV-00447-LJO-DLB PC, 2012 WL 1232315, at \*6 n.5 (E.D. Cal. Apr. 12, 2012) (noting inmate's entitlement to inspect discoverable information may be accommodated in ways which mitigate institutional safety concerns); Robinson v. Adams, No. 1:08-cv-01380-AWI-BAM PC, 2012 WL 912746, at \*2-3 (E.D. Cal. Mar. 16, 2012) (issuing protective order regarding documents containing information which implicated the safety and security of the prison); Orr v. Hernandez, No. CV-08-0472-JLQ, 2012 WL 761355, at \*1-2 (E.D. Cal. Mar. 7, 2012) (addressing requests for protective order and for redaction of information asserted to risk jeopardizing safety and security

1 of inmates or the institution if released); Womack v. Virga, No. CIV S-11-1030 MCE EFB P,  
2 2011 WL 6703958, at \*5-6 (E.D. Cal. Dec. 21, 2011) (requiring defendants to submit withheld  
3 documents for in camera review or move for a protective order).

4 However, this is a civil action to which the Federal Rules of Civil Procedure apply. The  
5 discovery process is subject to the overriding limitation of good faith, and callous disregard of  
6 discovery responsibilities cannot be condoned. Asea, Inc. v. Southern Pac. Transp. Co., 669 F.2d  
7 1242, 1246 (9th Cir. 1981) (quotation marks and citation omitted). “Parties may obtain discovery  
8 regarding any nonprivileged matter that is relevant to any party’s claim or defense and  
9 proportional to the needs of the case, considering the importance of the issues at stake in the  
10 action, the amount in controversy, the parties’ relative access to relevant information, the parties’  
11 resources, the importance of the discovery in resolving the issues, and whether the burden or  
12 expense of the proposed discovery outweighs its likely benefit.” Fed R. Civ. P. 26(b)(1).

13 Generally, if the responding party objects to a discovery request, the party moving to  
14 compel bears the burden of demonstrating why the objections are not justified. Grabek v.  
15 Dickinson, No. CIV S-10-2892 GGH P, 2012 WL 113799, at \*1 (E.D. Cal. Jan. 13, 2012);  
16 Womack, 2011 WL 6703958, at \*3; Mitchell v. Felker, No. CV 08-119RAJ, 2010 WL 3835765,  
17 at \*2 (E.D. Cal. Sep. 29, 2010); Ellis v. Cambra, No. 1:02-cv-05646-AWI-SMS PC, 2008 WL  
18 860523, at \*4 (E.D. Cal. Mar. 27, 2008). This requires the moving party to inform the Court  
19 which discovery requests are the subject of the motion to compel, and, for each disputed  
20 response, why the information sought is relevant and why the responding party’s objections are  
21 not meritorious. Grabek, 2012 WL 113799, at \*1; Womack, 2011 WL 6703958, at \*3; Mitchell,  
22 2010 WL 3835765, at \*2; Ellis, 2008 WL 860523, at \*4. However, the Court is vested with  
23 broad discretion to manage discovery and notwithstanding these procedures, Plaintiff is entitled to  
24 leniency as a pro se litigant; therefore, to the extent possible, the Court endeavors to resolve his  
25 motion to compel on its merits. Hunt v. County of Orange, 672 F.3d 606, 616 (9th Cir. 2012);  
26 Survivor Media, Inc. v. Survivor Productions, 406 F.3d 625, 635 (9th Cir. 2005); Hallett v.  
27 Morgan, 296 F.3d 732, 751 (9th Cir. 2002).

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III.

DISCUSSION

Plaintiff seeks to compel responses to Requests for Production of Documents Numbers 2, 3, 4, 7, 12, and 13, which were served on or about April 3, 2023. (ECF No. 54.)

Defendants oppose Plaintiff's motion claiming that they either produced the documents at issue, appropriately objected to irrelevant and overly broad document requests, or properly invoked the official privilege with respect to the production of confidential documents.

Federal Rule of Civil Procedure 34 authorizes a party to serve on any other party with a request to produce documents, electronically stored information, or other tangible evidence, that is relevant within the definition set forth in Rule 26(b). See Fed. R. Civ. P. 34(a)(1). "For each item or category, the response must either state that inspection and related activities will be permitted as requested or state an objection to the request, including the reasons.... An objection to part of a request must specify the part and permit inspection of the rest." Fed. R. Civ. P. 34(b)(2)(B), (C).

"[A] party need not have actual possession of documents to be deemed in control of them." Clark v. Vega Wholesale Inc., 181 F.R.D. 470, 472 (D. Nev. 1998) (quoting Estate of Young v. Holmes, 134 F.R.D. 291, 294 (D. Nev. 1991)). "A party that has a legal right to obtain certain documents is deemed to have control of the documents." Clark, 181 F.R.D. at 472; Allen v. Woodford, No. CV-F-05-1104 OWW LJO, 2007 WL 309945, \*2 (E.D. Cal. Jan. 30, 2007) (citing In re Bankers Trust Co., 61 F.3d 465, 469 (6th Cir. 1995)); accord Evans v. Tilton, No. 1:07-cv-01814 DLB PC, 2010 WL 1136216, at \*1 (E.D. Cal. Mar. 19, 2010). Under Rule 34(b), the party to whom the request is directed must respond in writing that inspection and related activities will be permitted as requested, or state an objection to the request, including the reasons. Fed. R. Civ. P. 34(b)(2). A reasonable inquiry must be made, and if no responsive documents or tangible things exist, Fed. R. Civ. P. 26(g)(1), the responding party should so state with sufficient specificity to allow the court to determine whether the party made a reasonable inquiry and exercised due diligence. Uribe v. McKesson, No. 08-cv-01285 DMS (NLS), 2010 WL 892093, at \*2-3 (E.D. Cal. Mar. 9, 2010). If responsive documents do exist but the

responsive party claims lack of possession, control, or custody, the party must so state with sufficient specificity to allow the court (1) to conclude that the responses were made after a case-specific evaluation and (2) to evaluate the merit of that response. Ochotorena v. Adams, No. 1:05-cv-001524-LJO-DLB (PC), 2010 WL 1035774, at \*3-4 (E.D. Cal. Mar. 19, 2010).

#### **A. Motion to Compel**

Plaintiff seeks to compel responses to Requests for Production of Documents Numbers 2, 3, 4, 7, 12, and 13.

This action is proceeding on Plaintiff's claim that on April 20, 2020, Defendant Valladolid used excessive force on him during an escort and Defendants Gamboa, Camargo and Hieng observed the incident and failed to intervene. Plaintiff also proceeds on a claim of retaliation against Defendant Gamboa for threatening physical harm if he reported the assault.

#### Request for Production No. 2:

Produce a copy of each Defendants, O. Valladolid; R. Gamboa; B. Camargo; T. Hieng prison work history background file to "any" and "all" staff misconduct (602) Grievance Complaints filed against them by Inmates to misbehavior from the date they started working as a correctional officers in the (CDCR) until today April 3, 2023.

#### Response:

Objection. This request is overbroad and assumes facts that have not been admitted. The request is also unduly burdensome, as Defendants cannot estimate the number of inquiries that may be required to an unknowable number of internal departments in order to compile documentation of "any" and "all" alleged misconduct over each Defendant's entire career. Additionally, the request is not limited to substantiated allegations or to incidents that are substantially similar to the claims at issue in this lawsuit (i.e. Eighth Amendment excessive force and First Amendment retaliation claims related to the alleged events of April 20, 2020 at COR). Given the breadth and voluminous nature of the request, it appears that much of what Plaintiff seeks is an attempt to uncover impermissible character evidence, which is inadmissible. Fed. R. Evid. 404(a)(1) (evidence of a person's bad character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait); *Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993). Further, the request may seek confidential information of non-party inmates, as well as confidential information that is integral to the safety and security of the institution, staff, and inmates, and cannot be released to the inmates; it may also seek documents that are protected by the official information privilege, privacy doctrines, and any other applicable privileges or protections recognized in the case law or conferred by statute. *See* Decl. of P. Williams, and privilege log. Pursuant to Tit. 15 C.C.R. § 3370(b), inmates are not entitled to have access to another inmate's case records file. Moreover, as this case currently proceeds on an Eighth

1 Amendment excessive force claim and a First Amendment retaliation claim related to the  
2 alleged events of April 20, 2020 at COR, the request is not relevant to any claim or  
3 defense, not proportional to the claims, and not proportional to the needs of the case,  
4 considering the importance of the issues at stake in the action, the amount in controversy,  
5 the parties' relative access to relevant information, the parties' resources, the importance  
6 of the discovery in resolving the issues, and whether the burden or expense of the  
7 proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(b)(1). On these  
8 grounds, and without waiving any objections, Defendants produce a copy of the 602  
9 grievance and the associated appeals that Plaintiff pursued against Defendant related to  
10 the present action, 602s (AGO 0001 – AGO 0020).

11 Ruling:

12 Plaintiff's motion to compel is granted in part. As stated above, Defendants argue, in part,  
13 that any responsive documents are protected by the official information privilege. They claim that  
14 these documents, if disclosed, would jeopardize the safety and privacy rights of non-party inmates  
15 and correctional staff and undermine the California Department of Corrections and  
16 Rehabilitation's ability to conduct confidential investigations.

17 Defendants acknowledge that, in federal cases, questions of privilege are resolved  
18 pursuant to federal law. Kelly v. City of San Jose, 114 F.R.D. 653, 660 (N.D. Cal. 1987). They  
19 note, however, that federal law recognizes a qualified privilege for official information. See Kerr  
20 v. United States Dist. Ct. for N.D. Cal., 511 F.2d 192, 198 (9th Cir. 1975). The qualified privilege  
21 is "contingent upon the competing interests of the requesting litigant and subject to disclosure  
22 especially where protective measures are taken ...." Id. Defendants have provided the declaration  
23 of P Williams, Litigation Coordinator at California State Prison-Corcoran, who asserts, in  
24 pertinent part, the following:

25 I have reviewed or am familiar with the documents and information that may be  
26 responsive to the discovery requests, and these documents and information cannot be  
27 disclosed to inmate Suarez. Specifically, inmate Suarez' First Set of Requests for  
28 Production of Documents Nos. 1, 2, 3, and 7 seek documents and information that are  
classified as confidential under Code of Regulations, Title 15, Section 3321(a)(1) and (2),  
and would endanger the safety of persons within the prison and jeopardize the security of  
the institution if disclosed. I have reviewed or am familiar with the documents and  
information responsive to these requests and can confirm that they seek such information.

CDCR's officers and employees generated, or collected and preserved, in the normal

1 course of business, all of these documents as confidential official information and have  
2 maintained their confidentiality. I am aware of the institution's policies concerning the  
3 release of documents reflecting investigations of complaints against staff members.  
4 Documents containing this type of information constitute "confidential documents" within  
5 the meaning of title 15, section 3321 of the California Code of Regulations, and therefore  
6 may not be provided to an inmate, parolee, or inmate or parolee's family members under  
7 the provisions of title 15, section 3450(d) of the California Code of Regulations.

8 Also, the institution has a substantial interest in withholding documents containing  
9 this type of information from disclosure to inmates or their family members. Confidential  
10 documents that reflect investigations of complaints against staff members would endanger  
11 individuals and would threaten the security of the institution if released for the reasons  
12 discussed below.

13 Such documents contain information that would reveal techniques used to investigate  
14 inmate complaints against staff, and the types of corrective measures taken as a result of  
15 such investigations. If inmates had access to this type of information, they would have the  
16 tools to sabotage staff attempts to deal with disruptive conduct and to undermine  
17 investigations into alleged misconduct. Inmates could use this information to manipulate  
18 staff or set them up for disrespect or even unwarranted discipline. Disclosure of this type  
19 of information could also substantially undermine staff's ability to control violent  
20 disturbances effectively, and with minimal force. Disclosure could also impair staff  
21 morale and authority by potentially subjecting staff to inmate ridicule. This would make it  
22 difficult to recruit qualified staff to work at California's prisons and reduce their  
23 effectiveness in controlling the inmate population. Disclosure could also reveal names of  
24 informants, and subject them to retaliation by inmates. Additionally, staff and other  
25 witnesses would be reluctant to candidly provide information if they knew this  
26 information would be disclosed, thus undermining the effectiveness of these  
27 investigations.

28 Investigative reports also contain confidential documents, such as photographs and  
video footage that was taken at the time of an alleged incident, which are also protected  
from disclosure because they contain footage related to other inmates and staff at COR.  
This type of third-party information may apply to a wide variety of situations or conduct  
that have no bearing on this lawsuit, and may reveal confidential information.

Additionally, complaints against staff are authored by other third party inmates who  
are not a party to this lawsuit and if disclosed without prior written authorization would  
invade the privacy rights of these other third party inmates. Such complaints may also  
contain protected health records of third-party patient inmates. Disclosure of such  
documents would also violate the California Code of Regulations, title 15, sections  
3370(a)-(b).

(ECF No. 55-1 at 14-1.)

As indicated above, Defendant did not produce any documents responsive to this request.  
Defendants have also failed to address any specific harm posed by the production of the withheld



documents. Defendants do not contend that any specific document threatens the safety and security of the institution, staff or inmates based on its content. Instead, defendants simply rely on the declaration of P. Williams for the proposition that disclosure of any and all withheld documents would endanger the safety of staff and inmates. However, Williams's declaration does not specifically address any of the documents actually withheld. Accordingly, the Court does not find merit to Defendants' argument for official privilege.

However, the Court finds merit in Defendants' argument that the is clearly overbroad in that Plaintiff is not entitled to any and all grievances filed against Defendants. Nonetheless, Plaintiff is entitled to grievances filed against all Defendants for excessive force and retaliation against Defendant Gamboa. See, e.g., Lawrence v. City & Cty. of San Francisco, No. 14-cv-0820-MEJ, 2016 WL 3254232, at \*4 (N.D. Cal. June 14, 2016); Nehad v. Browder, No. 15-cv-1386 WQH NLS, 2016 WL 2745411, at \*2 (S.D. Cal. May 10, 2016); Henderson v. Peterson, No. C 07-2838 SBA PR, 2011 WL 4412016, at \*2 (N.D. Cal. Feb. 3, 2011); Zackery v. Stockton Police Dep't., No. CIV S-05-2315 MCE DAD P, 2007 WL 1655634, at \*2 (E.D. Cal. June 7, 2007); Soto v. City of Concord, 162 F.R.D. 603, 615 (N.D. Cal. 1995) ("Records of complaints against defendant officers relating to their use of excessive force has been found to be relevant to a plaintiff's civil rights claim."). Accordingly, the Court will limit the discoverable documents to those regarding incidents occurring no more than ten years prior to the incident in this case. To the extent Defendants believe the documents may contain confidential information, the issue can be addressed by redacting such information from the grievances.

Request for Production No. 3:

Produce a copy from Defendants O. Valladolid; R. Gamboa; B. Camargo; T. Hieng to "any and all" consultations, Reprimands, Disciplined for "any" misbehavior against Inmates while working as Correctional Officer In "any" prison or jail.

Response:

Objection. This request is overbroad and assumes facts that have not been admitted. The request is also unduly burdensome, as Defendants cannot estimate the number of inquiries that may be required to an unknowable number of internal departments in order to compile documentation of "any" and "all" alleged misconduct over each Defendant's entire career. Additionally, the request is not limited to substantiated allegations or to



incidents that are substantially similar to the claims at issue in this lawsuit (i.e. Eighth Amendment excessive force and First Amendment retaliation claims related to the alleged events of April 20, 2020 at COR). Given the breadth and voluminous nature of the request, it appears that much of what Plaintiff seeks is an attempt to uncover impermissible character evidence, which is inadmissible. Fed. R. Evid. 404(a)(1) (evidence of a person's bad character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait); *Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993). Further, the request may seek confidential information of non-party inmates, as well as confidential information that is integral to the safety and security of the institution, staff, and inmates, and cannot be released to the inmates; it may also seek documents that are protected by the official information privilege, privacy doctrines, and any other applicable privileges or protections recognized in the case law or conferred by statute. *See* Decl. of P. Williams. Pursuant to Tit. 15 C.C.R. § 3370(b), inmates are not entitled to have access to another inmate's case records file. Moreover, as this case currently proceeds on an Eighth Amendment excessive force claim and a First Amendment retaliation claim related to the alleged events of April 20, 2020 at COR, the request is not relevant to any claim or defense, not proportional to the claims, and not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(b)(1). On these grounds, and without waiving any objections, Defendants have performed a diligent search and reasonable inquiry and the requested documents do not exist.

Ruling:

Plaintiff's motion to compel is denied. Notwithstanding Defendants' objections, Defendants submit that, without waiving any objections, they have performed a diligent search and reasonable inquiry and have not discovered any documents that are responsive to Plaintiff's request. Absent evidence to the contrary, not present here, Plaintiff is required to accept Defendants' representation, made under penalty of perjury, that no responsive documents exist. Accordingly, Plaintiff's motion to compel is denied.

Request for Production No. 4:

Produce a copy from each Defendants O. Valladolid; R. Gamboa++; B. Camargo; T. Hieng to "any" and "all" civil lawsuit filed against them by Inmates to violations of their United States Constitutional Rights.

Response:

Objection. This request is overbroad, assumes facts that have not been admitted, and seeks information equally available to Plaintiff. Additionally, the request is not limited to

substantiated allegations or to incidents that are substantially similar to the claims at issue in this lawsuit (i.e. Eighth Amendment excessive force and First Amendment retaliation claims related to the alleged events of April 20, 2020 at COR). Given the breadth and voluminous nature of the request, it appears that much of what Plaintiff seeks is an attempt to uncover impermissible character evidence, which is inadmissible. Fed. R. Evid. 404(a)(1) (evidence of a person's bad character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait); *Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993). Moreover, as this case currently proceeds on an Eighth Amendment excessive force claim and a First Amendment retaliation claim related to the alleged events of April 20, 2020 at COR, the request is not relevant to any claim or defense, not proportional to the claims, and not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(b)(1). On these grounds, and without waiving any objections, Defendants will not produce any responsive documents.

**Ruling:** For the same reasons explained as to Plaintiff's Request for Production No. 2, Plaintiff's motion to compel is granted in part. The Court finds merit in Defendants' argument that this request is overbroad in that Plaintiff is not entitled to any and all lawsuits filed against Defendants. However, Plaintiff is entitled to civil lawsuits previously filed against all Defendants for excessive force and retaliation against Defendant Gamboa. *See, e.g., Lawrence v. City & Cty. of San Francisco*, No. 14-cv-0820-MEJ, 2016 WL 3254232, at \*4 (N.D. Cal. June 14, 2016); *Nehad v. Browder*, No. 15-cv-1386 WQH NLS, 2016 WL 2745411, at \*2 (S.D. Cal. May 10, 2016); *Henderson v. Peterson*, No. C 07-2838 SBA PR, 2011 WL 4412016, at \*2 (N.D. Cal. Feb. 3, 2011); *Zackery v. Stockton Police Dep't.*, No. CIV S-05-2315 MCE DAD P, 2007 WL 1655634, at \*2 (E.D. Cal. June 7, 2007); *Soto v. City of Concord*, 162 F.R.D. 603, 615 (N.D. Cal. 1995) ("Records of complaints against defendant officers relating to their use of excessive force has been found to be relevant to a plaintiff's civil rights claim."). Accordingly, the Court will limit the discoverable documents to those regarding incidents occurring no more than ten years prior to the incident in this case. To the extent Defendant argue the documents may contain confidential information, the issue can be addressed by redacting such information from the documents.

Request for Production No. 7:

Produce a complete and unedited copy of “all” Audio Tape Recordings and notes by office of Internal Affairs (OIB) Correctional Lieutenant J. Aceves on May 14, 2020, May 18 2020 and any other date to his Investigation Interviews with Defendants O. Valladolid; R. Gamboa; B. Camargo; T. Hieng with correctional Officer Cerda and any other correctional officer or Inmate to plaintiff’s Excessive force complaint (CDCR 602 log no: CoR 20-02303).

Response:

Objection. This request is overbroad and assumes facts that have not been admitted. Further, the request may seek confidential information of non-party inmates, as well as confidential information that is integral to the safety and security of the institution, staff, and inmates, and cannot be released to the inmates; it may also seek documents that are protected by the official information privilege, privacy doctrines, and any other applicable privileges or protections recognized in the case law or conferred by statute. *See* Decl. of P. Williams, and privilege log. Pursuant to Tit. 15 C.C.R. § 3370(b), inmates are not entitled to have access to another inmate’s case records file. On these grounds, and without waiving any objections, Defendants will not produce any documents.

Ruling:

Plaintiff’s motion to compel is granted. *See, e.g.,* Grigsby v. Munguia, No. 2:14-cv-0789 GEB AC P, 2016 WL 900197, at \*4 (E.D. Cal. Mar. 9, 2016) (information uncovered during an investigation of plaintiff’s excessive force claim is discoverable), *mot. for recon. granted in part*, 2016 WL 1461614, at \*1 (E.D. Cal. Apr. 14, 2016) (requiring CDCR investigative report to be reviewed in camera before being provided to plaintiff); *Parks v. Tait*, No. 08-CV-1031-H JMA, 2009 WL 4730907, at \*6 (E.D. Cal. Dec. 7, 2009) (investigative reports regarding plaintiff’s excessive force allegations are discoverable). Defendant’s argument that Plaintiff’s request is overbroad is unfounded as Plaintiff clearly states that he requests a complete copy of all recordings and notes on May 14, 2020 and May 18, 2020 in relation to Plaintiff’s inmate appeal log number COR-2-02303. To the extent Defendants seek to withhold any portions of the internal investigation on the basis of the official information privilege and state law prohibiting Plaintiff from personally possessing the information, the Court finds such concerns are sufficiently addressed by producing the internal investigation to Court for in camera review, the filing a protective order and/or redaction of the confidential information.

Request for Production No. 12:

Produce all unedited copy to Body Camara footage of Defendants O. Valladolid; R. Gamboa; B. Camargo; T. Hieng to “any” and “all” Incidents of Excessive force and staff misconduct Behavior complaints by Inmates at Corcoran State Prison.

Response:

Objection. This request is overbroad, vague, and assumes facts that have not been admitted. The request is also unduly burdensome, as Defendants cannot estimate the number of inquiries that may be required to an unknowable number of internal departments in order to compile video documentation of “any” and “all” alleged misconduct over each Defendant’s entire career. Additionally, the request is not limited to substantiated allegations or to incidents that are substantially similar to the claims at issue in this lawsuit (i.e. Eighth Amendment excessive force and First Amendment retaliation claims related to the alleged events of April 20, 2020 at COR). Given the breadth and voluminous nature of the request, it appears that much of what Plaintiff seeks is an attempt to uncover impermissible character evidence, which is inadmissible. Fed. R. Evid. 404(a)(1) (evidence of a person's bad character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait); *Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993). Further, the request may seek confidential information of non-party inmates, as well as confidential information that is integral to the safety and security of the institution, staff, and inmates, and cannot be released to the inmates; it may also seek documents that are protected by the official information privilege, privacy doctrines, and any other applicable privileges or protections recognized in the case law or conferred by statute. See Decl. of P. Williams. Pursuant to Tit. 15 C.C.R. § 3370(b), inmates are not entitled to have access to another inmate’s case records file. Moreover, as this case currently proceeds on an Eighth Amendment excessive force claim and a First Amendment retaliation claim related to the alleged events of April 20, 2020 at COR, the request is not relevant to any claim or defense, not proportional to the claims, and not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(b)(1). Further, at the time of the alleged incident there were no body cameras in use by Defendants. On these grounds, and without waiving any objections, Defendants will not produce any documents responsive to this request.

Ruling:

Plaintiff’s motion to compel shall be denied. Plaintiff’s request is overbroad in that he seeks information that is not relevant to this action. In addition, Defendants have declared, under penalty of perjury, that at the time of the alleged incident at issue here there were no body cameras in use by any Defendant. Thus, there is no basis to compel a further response to this request and Plaintiff’s motion is denied.

Request for Production No. 13:

Produce “any and all” Electronically Stored Information” That are relevant to plaintiff’s civil action against all Defendants o. Valladolid; R. Gamboa; B. Camargo; T. Hieng To this case.

Response:

Objection. This request is overbroad, vague, and assumes facts that have not been admitted. Further, the request may seek confidential information of non-party inmates, as well as confidential information that is integral to the safety and security of the institution, staff, and inmates, and cannot be released to the inmates; it may also seek documents that are protected by the official information privilege, privacy doctrines, and any other applicable privileges or protections recognized in the case law or conferred by statute. See Decl. of P. Williams. Pursuant to Tit. 15 C.C.R. § 3370(b), inmates are not entitled to have access to another inmate’s case records file. On these grounds, and without waiving any objections, Defendants have conducted a reasonable search and diligent inquiry and the requested documents do not exist.

Ruling:

Plaintiff’s motion to compel a further response is denied. Plaintiff’s request is wholly overbroad and seeks information that is not relevant to this action. Accordingly, Plaintiff’s motion to compel is denied.

**IV.**

**CONCLUSION AND ORDER**

Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff’s motion to compel is granted in part and denied in part as follows:
  - a. Plaintiff’s motion in limine no. 2 is granted in part and within thirty (30) days from the date of service of this order, Defendants shall serve a response subject to any applicable redaction;
  - b. Plaintiff’s motion in limine no. 3 is denied;
  - c. Plaintiff’s motion in limine no. 4 is granted in part and within thirty days from the date of service of this order, Defendants shall serve a response subject to any applicable redaction;
  - d. Plaintiff’s motion in limine no. 7 is granted and within thirty days from the date of service of this order, Defendants shall serve a response to Plaintiff’s request

subject to in camera review if deemed appropriate;

e. Plaintiff's motion in limine no. 12 is denied; and

f. Plaintiff's motion in limine no. 13 is denied.

IT IS SO ORDERED.

Dated: September 8, 2023



UNITED STATES MAGISTRATE JUDGE